

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 969

Introduced by Urban Affairs Committee: McGill, 26, Chairperson;
Coash, 27; Cook, 13; Krist, 10; Lathrop, 12; Rogert,
16; White, 8.

Read first time January 19, 2010

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to municipalities; to amend sections 17-107 and
2 17-208, Revised Statutes Supplement, 2009; to provide for
3 terms of office for certain officers; and to repeal the
4 original sections.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 17-107, Revised Statutes Supplement,
2 2009, is amended to read:

3 17-107 (1) A mayor of a city of the second class shall be
4 elected in the manner provided in the Election Act. The mayor shall
5 be a resident and registered voter of the city. If the president
6 of the council assumes the office of mayor for the unexpired term,
7 there shall be a vacancy on the council which vacancy shall be
8 filled as provided in section 32-568.

9 (2) The mayor, with the consent of the council, may
10 appoint such officers as shall be required by ordinance or
11 otherwise required by law. Such officers may be removed from
12 office by the mayor. The terms of office for all officers, except
13 regular police officers, appointed by the mayor and confirmed by
14 the council shall be established by the city council by ordinance.
15 The ordinance shall provide that either (a) the officers hold the
16 office to which they have been appointed until the end of the
17 mayor's term of office and until their successors are appointed
18 and qualified unless sooner removed or (b) the officers shall hold
19 office for one year unless sooner removed.

20 (3) (a) The mayor, by and with the consent of the council,
21 shall appoint such a number of regular police officers as may be
22 necessary. All police officers appointed by the mayor and council
23 may be removed, demoted, or suspended at any time by the mayor as
24 provided in ~~subsection (2) of this section.~~ subdivision (b) of this
25 subsection. A police officer, including the chief of police, may

1 appeal to the city council such removal, demotion, or suspension
2 with or without pay. After a hearing, the city council may uphold,
3 reverse, or modify the action.

4 ~~(2)~~ (b) The city council shall by ordinance adopt rules
5 and regulations governing the removal, demotion, or suspension with
6 or without pay of any police officer, including the chief of
7 police. The ordinance shall include a procedure for such removal,
8 demotion, or suspension with or without pay of any police officer,
9 including the chief of police, upon the written accusation of
10 the police chief, the mayor, or any citizen or taxpayer. The
11 city council shall establish by ordinance procedures for acting
12 upon such written accusation, including: ~~(a)~~ (i) Provisions for
13 giving notice and a copy of the written accusation to the police
14 officer; ~~(b)~~ (ii) the police officer's right to have an attorney
15 or representative retained by the police officer present with
16 him or her at all hearings or proceedings regarding the written
17 accusation; ~~(c)~~ (iii) the right of the police officer or his or
18 her attorney or representative retained by the police officer to be
19 heard and present evidence; and ~~(d)~~ (iv) the right of the police
20 officer as well as the individual imposing the action or their
21 respective attorneys or representatives to record all hearings or
22 proceedings regarding the written accusation. The ordinance shall
23 also include a procedure for making application for an appeal,
24 specifications on the period of time within which such application
25 shall be made, and provisions on the manner in which the appeals

1 hearing shall be conducted. Both the police officer and the
2 individual imposing the action or their respective attorneys or
3 representatives shall have the right at the hearing to be heard and
4 to present evidence to the city council for its consideration. Not
5 later than thirty days following the adjournment of the meeting at
6 which the hearing was held, the city council shall vote to uphold,
7 reverse, or modify the action. The failure of the city council to
8 act within thirty days or the failure of a majority of the elected
9 council members to vote to reverse or modify the action shall be
10 construed as a vote to uphold the action. The decision of the city
11 council shall be based upon its determination that, under the facts
12 and evidence presented at the hearing, the action was necessary for
13 the proper management and the effective operation of the police
14 department in the performance of its duties under the statutes of
15 the State of Nebraska. Nothing in this section shall be construed
16 to prevent the preemptory suspension or immediate removal from duty
17 of an officer by the appropriate authority, pending the hearing
18 authorized by this section, in cases of gross misconduct, neglect
19 of duty, or disobedience of orders.

20 ~~(3)~~ (c) This ~~section~~ subsection does not apply to a
21 police officer during his or her probationary period.

22 Sec. 2. Section 17-208, Revised Statutes Supplement,
23 2009, is amended to read:

24 17-208 ~~(1)(a)~~ (1) The village board of trustees may
25 appoint a village clerk, treasurer, attorney, overseer of the

1 streets, and marshal or chief of police and other such officers
2 as shall be required by ordinance or otherwise required by law.

3 Pursuant to subsection (2) of this section, the

4 (2)(a) The village marshal or chief of police or any
5 other police officer may appeal to the village board his or her
6 removal, demotion, or suspension with or without pay. After a
7 hearing, the village board may uphold, reverse, or modify the
8 action.

9 (b) The village board of trustees shall by ordinance
10 adopt rules and regulations governing the removal, demotion, or
11 suspension with or without pay of any police officer, including the
12 village marshal or chief of police. The ordinance shall include a
13 procedure for such removal, demotion, or suspension with or without
14 pay of any police officer, including the village marshal or chief
15 of police, upon the written accusation of the village marshal or
16 chief of police, the chairperson, or any citizen or taxpayer. The
17 village board of trustees shall establish by ordinance procedures
18 for acting upon such written accusation, including: (i) Provisions
19 for giving notice and a copy of the written accusation to the
20 police officer; (ii) the police officer's right to have an attorney
21 or representative retained by the police officer present with
22 him or her at all hearings or proceedings regarding the written
23 accusation; (iii) the right of the police officer or his or her
24 attorney or representative retained by the police officer to be
25 heard and present evidence; and (iv) the right of the police

1 officer as well as the individual imposing the action or their
2 respective attorneys or representatives to record all hearings or
3 proceedings regarding the written accusation. The ordinance shall
4 also include a procedure for making application for an appeal,
5 specifications on the period of time within which such application
6 shall be made, and provisions on the manner in which the appeals
7 hearing shall be conducted. Both the police officer and the
8 individual imposing the action or their respective attorneys or
9 representatives shall have the right at the hearing to be heard
10 and to present evidence to the village board for its consideration.
11 Not later than thirty days following the adjournment of the meeting
12 at which the hearing was held, the village board shall vote to
13 uphold, reverse, or modify the action. The failure of the village
14 board to act within thirty days or the failure of a majority of
15 the elected board members to vote to reverse or modify the action
16 shall be construed as a vote to uphold the action. The decision
17 of the village board shall be based upon its determination that,
18 under the facts and evidence presented at the hearing, the action
19 was necessary for the proper management and the effective operation
20 of the police department in the performance of its duties under the
21 statutes of the State of Nebraska. Nothing in this section shall be
22 construed to prevent the preemptory suspension or immediate removal
23 from duty of an officer by the appropriate authority, pending the
24 hearing authorized by this section, in cases of gross misconduct,
25 neglect of duty, or disobedience of orders.

1 (c) This subsection does not apply to a police officer
2 during his or her probationary period.

3 ~~(2)~~ (3) The village board of trustees shall also appoint
4 a board of health consisting of three members: The chairperson of
5 the village board, who shall be chairperson, and two other members.
6 One member shall be a physician or health care provider, if one
7 can be found who is willing to serve. Such physician or health
8 care provider, if appointed, shall be the board's medical advisor.
9 If the village board of trustees has appointed a marshal or chief
10 of police, the marshal or chief of police may be appointed to the
11 board and serve as secretary and quarantine officer. A majority of
12 the board of health shall constitute a quorum and shall enact rules
13 and regulations, which shall have the force and effect of law,
14 to safeguard the health of the people of such village and prevent
15 nuisances and unsanitary conditions. The board of health shall
16 enforce the same and provide fines and punishments for violations.
17 ~~The appointees~~

18 (4) The village clerk, treasurer, attorney, overseer of
19 the streets, marshal or chief of police, members of the board of
20 health, and other appointed officers shall hold office for one year
21 unless removed by the chairperson of the village board with the
22 advice and consent of the trustees.

23 Sec. 3. Original sections 17-107 and 17-208, Revised
24 Statutes Supplement, 2009, are repealed.